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COUNTY OF SANTA CLARA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MELISSA DEATHRIDGE

Plaintiff,

v.

COUNTY OF SANTA CLARA,
CARL SIMS, R. LIDDLE AND
DOES 1 through 10

Defendants.

C08 00660 HRL

(Superior Court Case No. 1-07-CV101643)

DEFENDANT COUNTY OF SANTA
CLARA'S MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF
PETITION FOR REMOVAL OF CIVIL
ACTION

I.

INTRODUCTION

This is an action for alleged violation of Plaintiff Melissa Deathridge's ("Deathridge") rights guaranteed under, inter alia, the United States Constitution. Deathridge first alleged this federal civil rights violation in the Complaint she filed in Santa Clara County Superior Court on or about December 21, 2007. Defendant County of Santa Clara ("County") hereby petitions this Court for removal of said action pursuant to 28 U.S.C. §1441.

II.

FACTS

On December 21, 2007, Deathridge filed an action in the Superior Court of the State of California in and for the County of Santa Clara, entitled *Melissa Deathridge v. County of Santa*

1 *Clara, et. al.*, as case number 1-07-CV101643. The County was named as a defendant therein.
 2 In her instant complaint, Deathridge alleges that she was deprived of her rights guaranteed
 3 under the Constitution of the United States.

4 **III.**

5 **APPLICABLE LAW**

6 When a defendant is sued initially in a state court under federal civil rights claims, the
 7 defendant has the option of defending in the state court or removing the proceeding to federal
 8 court pursuant to 28 U.S.C. §1441(b) which provides, in relevant part: "[a]ny civil action of
 9 which the district courts have original jurisdiction founded on a claim or right arising under the
 10 Constitution, treaties or laws of the United States shall be removable without regard to the
 11 citizenship or residence of the parties." 28 U.S.C. §1441(a) states that the proper venue upon
 12 removal is to the district court "for the district and division embracing the place where such
 13 state action is pending."

14 In this case, Deathridge sues the County for, among other things, violations of the laws of
 15 the United States. The action was brought in the Superior Court for the County of Santa Clara.
 16 Accordingly, it is respectfully submitted that the County is entitled to have this action removed
 17 to United States District Court in the Northern District of California.

18 Dated: January 25, 2008

Respectfully submitted,

19 ANN MILLER RAVEL
 20 County Counsel

21 By: 

22 KEVIN M. HAMMON
 23 Deputy County Counsel

24 Attorneys for Defendant
 25 COUNTY OF SANTA CLARA
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 27
 28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PROOF OF SERVICE BY MAIL

Deathridge v. County of Santa Clara, et al.

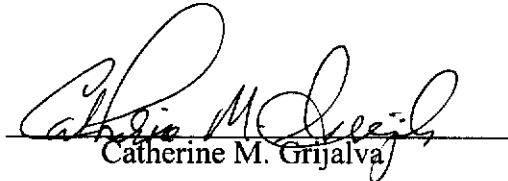
I, Catherine M. Grijalva, say:

I am now and at all times herein mentioned have been over the age of eighteen years, employed in Santa Clara County, California, and not a party to the within action or cause; that my business address is 70 West Hedding, East Wing, 9th Floor, San Jose, California 95110-1770. I am readily familiar with the County's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I served a copy of **DEFENDANT COUNTY OF SANTA CLARA'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR REMOVAL OF CIVIL ACTION** by placing said copy in an envelope addressed to:

Marianne C. Rossi, Esq.
Law Offices Of Marianne C. Rossi
702 Marshall St., #500
Redwood City, CA 94063

which envelope was then sealed, with postage fully prepaid thereon, on **January 28, 2008**, and placed for collection and mailing at my place of business following ordinary business practices. Said correspondence will be deposited with the United States Postal Service at San Jose, California, on the above-referenced date in the ordinary course of business; there is delivery Service by United States mail at the place so addressed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on **January 28, 2008**, at San Jose, California.


Catherine M. Grijalva

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